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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	DOCKET FILE COPY ORIGINAL
Interconnection and Resale Obligations	)	
Pertaining to	)	CC Docket No. 94-54
Commercial Mobile Radio Services	)	

COMMENTS OF CONNECTICUT TELEPHONE AND COMMUNICATION SYSTEMS, INC.

Connecticut Telephone and Communication Systems, Inc. ("Connecticut Telephone"), pursuant to Section 1.415 of the Commission's Rules, hereby submits its Comments in response to the *Second Notice of Proposed Rule Making*, FCC 95-149 (April 20, 1995), in the above-captioned proceeding ("*Second NPRM*"). As fully set forth below, Connecticut Telephone strongly supports the Commission's tentative conclusion to adopt a general resale obligation for Commercial Mobile Radio Service ("CMRS") providers and further urges the Commission to reconsider its inclination not to adopt the reseller switch proposal earlier espoused by the National Wireless Resellers Association ("NWRA," formerly NCRA) and CSI/ComTech. Connecticut Telephone believes that a general resale obligation combined with a policy encouraging switch-based resale not only will help foster greater competition among CMRS providers, but also will provide a platform encouraging the rapid deployment PCS systems, especially by small businesses.

I. STATEMENT OF INTEREST

Connecticut Telephone, as a reseller of cellular and other wireless services in the state of Connecticut since it was incorporated in 1985, is intensely interested in the outcome of this proceeding. The company began by reselling bulk cellular service purchased from Springwich Cellular Limited Partnership, an affiliate of Southern New England Telephone, the wireline cellular

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licensee. Two years later, Connecticut Telephone began purchasing bulk cellular service from Metro Mobile,[1] the non-wireline cellular licensee. The company has since grown to be the largest independent cellular service provider in Connecticut, servicing more than 30,000 subscribers. Moreover, Connecticut Telephone estimates that it will add 7000 new subscribers by the end of this year. The company's growth is due in large part to its commitment to service. Connecticut Telephone has invested heavily in sales and marketing and service operations that are better able to respond to subscribers' needs than is typical of most facilities-based cellular operators. Proof of this can be found in the fact that the churn rate of facilities-based carriers is much higher than Connecticut Telephone's.

The company's success, however, has not come easily. The wholesale rate plans of the cellular carriers are structured in a manner which does not provide sufficient margins between wholesale and retail rates for small resellers to succeed. Indeed, the next largest independent competitor to Connecticut Telephone has a subscriber base which is less than one tenth that of Connecticut Telephone. Despite the diligent efforts of many resellers across the nation, there are currently but a handful of successful cellular resellers who have managed to survive the efforts of most facilities-based carriers to squeeze them out of existence.

II. COMMENTS

A. The Commission Should Impose a Mandatory Resale Requirement on Facilities-Based Carriers.

The Commission succinctly identified the issue faced by resellers when it explained in the *Second NPRM* that "even though carriers are permitted to charge and realize a profit from

[1] Metro Mobile was acquired by Bell Atlantic in 1992. Bell Atlantic offers cellular service in Connecticut through its subsidiary Bell Atlantic Metro Mobile.

selling service to resellers, the return is higher when they provide the retail service directly to end users."[2] Accordingly, the Commission correctly concluded that absent a mandatory resale requirement, "carriers might very well refuse to permit others to resell their service," thereby limiting CMRS competition.[3]

The Commission also correctly noted in this proceeding that it "has consistently supported resale by prohibiting most common carriers from placing any restrictions on resale of their services."[4] The more dynamic the resale policy, the more likely innovations will be introduced and prices will fall. Indeed, Connecticut Telephone provides a vivid example of the Commission's belief that "promoting resale is advantageous because resellers may be a source of marketplace innovation (*e.g.*, by adding value to the resold service)."[5] As explained above, the primary reason for Connecticut Telephone's success stems from the value added by its superior customer service.

B. The Commission Should Adopt a Policy Encouraging Switch-Based Resale.

While Connecticut Telephone wholeheartedly supports the Commission's tentative conclusion to impose a general resale obligation on CMRS providers, it submits that the Commission's reluctance to adopt a policy encouraging switch-based resale is misplaced.[6] Connecticut Telephone specifically disagrees with the Commission's suggestion that promoting

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[2] *Second NPRM*, ¶ 86.

[3] *Id.*

[4] *Id.* at ¶ 60 (emphasis added).

[5] *Id.* at ¶ 84.

[6] At the outset, Connecticut Telephone wholly concurs with NWRA's position that Section 332(c)(1)(B) of the Act obligates CMRS providers, as it obligates all common carriers, to interconnect with other CMRS providers, including switch-based resellers.

switch-based resale may impose excessive and unnecessary costs on the industry, the Commission, and the consumer.[7] As explained below, any costs that may arise from a policy encouraging switch-based resale will be far outweighed by the benefits of such a policy.

In the *Second NPRM*, the Commission expressed tentative faith in the prospect that competitive forces in the future "should provide a significant check on inefficient or anticompetitive behavior," and that, accordingly, "a regulatory mandate to allow switch-based resale may be unnecessary."[8] Connecticut Telephone respectfully suggests that while avoiding inefficient or anticompetitive behavior is important, the Commission should take steps wherever possible to implement policies that increase competition as well. The Commission should not view a switch-based resale policy only as a means to prevent harm to consumer welfare to be discarded because the Commission determines that competition in general will protect consumers. Instead, the Commission should implement policies that encourage the greatest amount of competition. A policy encouraging the unbundling of services to enable switch-based resale will do just that.

1. Switch-Based Resale Will Not Impose Excessive Costs on Carriers.

The Commission has suggested that a policy encouraging unbundling for switch-based resale may impose excessive costs on the carriers.[9] Connecticut Telephone respectfully suggests that cost burdens should be carefully weighed against the benefits of promoting competition between resellers and cellular licensees. CMRS providers have complained that it is administratively difficult to cost out the various components of their services. This explanation should not be taken

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[7] *Second NPRM*, ¶ 96.

[8] *Id.*

[9] *Id.*

at face value. It is hard to imagine that any CMRS provider in the competitive environment foreseen by the Commission would not know, or have the ability to quickly find out, each and every element of its costs. A competitive marketplace rewards the efficient and penalizes the inefficient. No CMRS provider can afford to compete "blindly." Once a cellular licensee knows the cost of each component of service, there is no additional impediment to pricing it fairly to a reseller. The decision whether to pay the costs of unbundled services should be left to the purchaser. Thus, the Commission should not be overly impressed by carrier arguments concerning the allegedly excessive costs they will incur to unbundle their services. These were the same arguments raised by AT&T and the LECs and ultimately rejected by the Commission in ordering the unbundling of basic and enhanced services.[10]

2. Switch-Based Resale Will Benefit Consumers.

The Commission's concern about the costs that may be imposed on consumers if a switch-based resale policy is adopted seems similarly unwarranted. Such a policy would offer the prospect of enhanced competition which will only redound to the benefit of consumers as prices drop. Further, switch-based resale will provide resellers with greater flexibility to offer more services to consumers. Instead of imposing costs on consumers, a switched-based resale policy offers consumers a host of benefits. As the Commission has recognized, resellers such as Connecticut Telephone enhance competition by adding value to resold services. Without the ability to control the switching functions, however, the scope of the value added is limited by the services

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[10] *See In the Matter of Section 64.702 of the Commission's Rules and Regulations (Second Computer Inquiry), Final Decision*, 77 F.C.C. 2d 384 (1980)("*Computer II Final Decision*), *modified on reconsideration*, 84 F.C.C. 2d 50 (1980), *aff'd, Computer and Communications Industry Association v. F.C.C.*, 693 F.2d 198 (D.C. Cir. 1982); *see also In the Matter of Competition in the Interstate Interexchange Marketplace, Memorandum Opinion and Order on Reconsideration*, FCC 95-2 (released Feb. 17. 1995), ¶ 40.

offered by the underlying carrier. At present, a reseller such as Connecticut Telephone cannot add new services for its customers unless those services are already a part of the bulk cellular service purchased from the cellular licensee. While the reseller can add value by providing better customer service, more convenient billing formats and more competitive interexchange service, it cannot provide innovative, advanced service features which are dependent on switching. For these, the reseller must rely on the underlying carrier who controls the facilities that could provide such innovations.[11]

3. Switch-Based Resale Will Decrease, Not Increase, Administrative Costs.

Finally, in questioning the need for switch-based resale, the Commission has cited concern "about the administrative complexity and costs of imposing such regulations."[12] As explained below, Connecticut Telephone respectfully suggests that a switch-based resale policy need not result in administrative complexity nor impose significant costs on the Commission. In fact, the alternative -- not adopting such a policy -- is likely to result in even higher administrative costs.

In the *Second NPRM*, the Commission noted that two cellular resellers have filed complaints against two different cellular licensees because the facilities-based carriers have refused to permit interconnection as required by Sections 332(c)(1)(B) and 201(a) of the Communications Act of 1934, as amended. Connecticut Telephone submits that as resale in general proliferates as a result of the creation of additional carriers, the Commission can expect to receive an increasing number of interconnection complaints which will require the commitment of increasingly scarce

[11] Moreover, the argument that a reseller can obtain these features directly from an LEC is specious because to do so, the reseller would be required to pay twice for many of the same service components, once from the cellular carrier and again from the LEC. Such an arrangement obviously would be uneconomic as well as unnecessary.

[12] *Second NPRM*, ¶ 96.

Commission resources. For example, Connecticut Telephone itself has been attempting, unsuccessfully thus far, to negotiate a similar interconnection arrangement with a cellular licensee who continues to resist the request.

In February of this year, Connecticut Telephone wrote to Southern New England Telephone to request interconnection with its subsidiary Springwich Cellular Limited Partnership ("Springwich"). The interconnection proposal identified the 4-wire interoffice trunks for voice communication and data circuits for call processing to connect Connecticut Telephone's planned switching office with Springwich's MTSO using T-1 or higher facilities. Connecticut Telephone would assume the telecommunications functions on the landline side of Springwich's MTSO, including many of the switching and administrative functions currently loaded in the MTSO. Connecticut Telephone plans to acquire its own discrete NXX codes and register them in the MTSO. Based on these and several other proposals, and consistent with NWRA's proposal in this proceeding, Springwich was asked to identify per minute charges for airtime, mobile handoff, and cell site backhaul; monthly line termination charges for each T-1 channel terminating at the MTSO; and any non-recurring charges associated with establishing service pursuant to Connecticut Telephone's proposal.

Approximately one month later, Springwich responded with a number of technical questions and requests for details about the interconnection proposal. Connecticut Telephone provided answers to every question posed by Springwich on the following day and also asked for certain equipment specifications so that a specific technical interconnection plan could be developed. Nearly three months later, counsel for Springwich informed Connecticut Telephone that a great deal of additional technical detail would be needed before Springwich could even assess whether the interconnection request was feasible.[13]

If Springwich is representative of other facilities-based carriers in responding to requests for interconnection, it seems clear that Connecticut Telephone and other similarly situated resellers are going to face inordinate delays before interconnection becomes a reality. The current procedure for dealing with these problems in complaint proceedings pursuant to Sections 332(c)(1)(B) and 201(a) is not conducive to a speedy resolution. When resellers are stymied by the lack of cooperation from cellular licensees, not only will the Commission have to deploy scarce resources, but consumers will also suffer because additional competitors will be trammelled. The public interest would be far better served by adopting a clear and concise switch-based resale policy.

Absent such a policy, the Commission faces the prospect of any number of complaint proceedings pursuant to Sections 332(c)(1)(B) and 201(a) that each typically take much more than a year of the Commission's resources to resolve. The number of complaints will undoubtedly increase as the number of carriers in a given geographic market increases. Those costs will be substantial and cannot be discounted. On the other hand, a clear and concise switched-based resale policy intended to promote competition will likely avoid unremitting recourse to administrative mediation. The Commission should acknowledge these trade-offs. In addition, a policy promoting switched-based resale could be far less complex than the present rules regarding a formal complaint procedure for handling unreasonable denials of requests for interconnection.[14] Connecticut

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[13] The claims of cellular carriers notwithstanding, Connecticut Telephone notes for the record that switch-based resale is neither technically infeasible nor economically unreasonable. Indeed, the switch-based resale policy adopted and implemented in California could serve as a model for the Commission. Moreover, the states' ability to resolve these issues and shoulder any administrative burden associated therewith, as California has, further reduces the need for the Commission to expend its own administrative resources.

[14] For example, the Commission could establish procedures consistent with its obligations under the Administrative Dispute Resolution Act, Pub. L. No. 552, 101st Cong., 2nd Sess. (November 15, 1990)("ADRA"), as reflected in the Commission's *Initial Policy Statement and Order*, 6 FCC Rcd 5669 (1991), implementing ADRA.

Telephone appreciates the Commission's interest in not increasing regulatory costs, but believes that a failure to encourage switch-based resale may have precisely that effect.

C. A Switch-Based Resale Policy Will Speed the Deployment of PCS Systems By Small Businesses.

Perhaps the greatest benefit of a robust switched-based resale industry is the contribution it will make to the rapid deployment of PCS systems by small businesses and other designated entities. As the Commission is well aware, these entities already face a difficult challenge in attempting to compete with the well-established and well-funded giants of the wireless telecommunications industry. Moreover, their task is made doubly difficult by the large infrastructure costs associated with PCS networks. Many prospective designated entity licensees are searching for alternative means by which to establish the infrastructure necessary to construct viable, competitive networks.

Connecticut Telephone submits that by encouraging the deployment of alternative switching facilities such as those offered by switch-based resellers, the Commission not only will be encouraging competition by the resellers, but also will provide small PCS licensees with a cost-effective means of deploying a significant component of their PCS networks. Connecticut Telephone envisions a scenario whereby designated entities can enter into agreements with switch-based resellers to provide the switching, billing and other functions necessary to the operation of a PCS network without having to acquire, install and operate these facilities on their own and at their own expense.[15]

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[15] The June 12, 1995 Supreme Court decision striking down the legality of race-based preferences suggests that the Commission should explore precisely this type of preference-neutral policy as a means of promoting greater participation in the telecommunications industry by those currently under represented.

The alternative -- adopting policies which effectively preclude the opportunity for switch-based resale -- thus not only limits competition in general, but also places small business, in particular, at a disadvantage. While it is difficult for small businesses to purchase and construct complete wireless telecommunications networks, it is possible for such entities to acquire the component parts the networks on an incremental basis. Requiring resellers, in effect, to purchase all of the network components from a single source, i.e., the facilities-based carrier, unnecessarily limits the options available to small businesses wishing to compete on a facilities-based level.

III. CONCLUSION

For the reasons stated herein, Connecticut Telephone respectfully requests the Commission to adopt a mandatory resale requirement and a policy encouraging switch-based resale.

Respectfully Submitted,

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